

## COMPLAINT 2011 – NO. 3

In Re Stanford

### DETERMINATION OF NO REASONABLE CAUSE AND ORDER OF DISMISSAL

August, 2011

#### 1. Nature of the Complaint

The complaint was received on June 1, 2011 and it alleges that Representative Derek Stanford (Respondent) provided an email or the information contained in that email to his spouse. Respondent's spouse is registered with the Public Disclosure Commission as a co-campaign manager for complainant's opponent in an election for Bothell City Council. The complainant believes that he conveyed his support of charter schools to Respondent in one or more emails and that complainant's opponent used that information to help secure the endorsement of the King County Democrats for the Council position. The statute at issue is RCW 42.52.180.

RCW 42.52.180 prohibits the use of the facilities of an agency to assist a campaign. .180 states in pertinent part that:

- (1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. *Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency* (emphasis added).
- (2) ...
- (3) ...

## **2. Conclusion**

The question is whether Respondent provided a legislative email identifying complainant's support of charter schools to the complainant's opponent for the opponent's use in the election for City Council? The documents provided to the Board do not support the allegation and accordingly we conclude there is no reasonable cause to believe that Respondent violated the Ethics in Public Service Act.

## **3. Determinations of Fact**

There is reasonable cause to believe that the facts of this case are as follows. The complainant provided the Board with copies of seven emails between himself and the Respondent and one responsive email from the Office of the Governor. Of the seven emails, five were dated before the Respondent was first elected to the House of Representatives in 2010 and were sent to, and answered from, Respondent's personal or campaign email addresses. The remaining two emails were sent to, and answered from, Respondent's legislative email address in January, 2011 following Respondent's election to legislative office. The Governor's responsive email is not at issue in this case.

Four emails accompanied the complaint as exhibits and they may be described as follows.

- (a) August 4, 2010 – Governor's response to complainant's email which states "Thank you for contacting Governor Gregoire to express your support for charter schools." The email continues by expressing the Governor's views.
- (b) October 23, 2010 – Complainant's email to Respondent at the latter's campaign headquarters. "Just voted for you – sealed, signed and in the mail. Good luck. Please consider supporting Charter Schools." The email continues with reasons why charter schools should be supported.
- (c) January 17, 2011 – Complainant's email to Respondent at the latter's legislative email address with copies to two other legislators. This email contains complainant's observations of a recent House Education Committee work session. The only reference to charter schools is found in the last sentence. "Charter Schools were also highlighted."
- (d) January 19, 2011 – Respondent replied to 1/17/11 email using his legislative email address. There was no mention of charter schools

Following the Board's request for further information the complainant provided four additional emails.

- (e) July 30, 2010 – Complainant to Respondent at the latter's campaign headquarters. "Mr. Stanford, I appreciate you trying to come by to introduce yourself – doorbelling is the most admirable way of getting votes. Can you tell me your views on education specifically related to new graduation requirements for high school math?" The email continues on the subject of math with no mention of charter schools.

- (f) August 3, 2010 – Responsive email from Respondent’s personal or campaign email address. “As a statistician, I am particularly concerned that we get the details right when we talk about testing students and measuring their performance, especially when it has such high stakes as directly impacting their high school graduation.” The email continues on the subject of testing and performance with no mention of charter schools.
- (g) August 5, 2010 – Complainant to Respondent at the latter’s campaign headquarters. This email contains two references to charter schools. “I trust you are spot on with your questions and will take common sense with you to Olympia. The only other issues I’ll bring up now (asking for your support) are for Charter Schools (more on education) and clean energy...I’d be happy to meet with you regarding my arguments for Charter Schools. I’m so frustrated that Washington State lost Race to the Top. Something has to change.”
- (h) December 15, 2010 – Complainant to Respondent at the latter’s campaign headquarters. “Representative Stanford: Please consider removing the National Board Certification program from Washington’s educational budget. The money could be better utilized elsewhere. Consider the facts:” The email continues with complainant’s views on this subject with no mention of charter schools.

#### **4. Conclusions of Law**

- (i) RCW 42.52.180 prohibits the use of the facilities of the Legislature “...for the purpose of assisting a campaign for election of a person to an office...” and this prohibition is applicable to local campaigns as well as legislative campaigns (see, for example, Complaint 2006 – No. 2; legislator violated .180 when he used or authorized the use of legislative facilities to assist a candidate for city council).
- (j) RCW 42.52.180 defines “facilities” as public resources in the nature of physical resources such as stationery, postage, equipment, employees, office space, etc. As defined by the statute, mere information or knowledge of a fact is not a facility of the Legislature.
- (k) RCW 42.52.180 is applicable to a “state officer or state employee.”

#### **5. Summary**

Of the eight emails offered in support of the complaint, only four reflected the complainant’s support of charter schools. One of these was a responsive email from the Office of the Governor. Two of the remaining three (August 5, 2010 and October 23, 2010) were exchanges with Respondent at his personal or campaign email address and were sent to legislative candidate Stanford before he was a state officer. The remaining email (January 17, 2011) from complainant to Respondent was sent to Respondent’s legislative email address and contained a brief, passing reference to charter schools as one subject discussed in a House committee meeting. Respondent’s legislative email reply contained no mention of charter schools. We have been presented with no evidence that Representative Stanford, as a state officer, used the facilities of the Legislature to assist complainant’s opponent in the local election.

## **6. Order**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the complaint is dismissed for lack of reasonable cause to believe that the Ethics Act was violated.

David R. Draper, Chair  
Date: August 1, 2011